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**VIA EMAIL**

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**Re: *MasterObjects, Inc. v. Amazon.com, Inc.*, Case No. 3:20-cv-08103-WHA  
Proposed Improper Letter to the Court**

Dear Counsel:

We write to respond to your email yesterday enclosing a draft letter to the Court.

We have checked, and any request to change the trial date must be brought as a fully noticed motion per Civil Local Rule 40-1 and as subject to the 35-day noticed motion schedule. If Amazon wants to try to alter the trial date, we believe it needs to file a properly noticed motion.

Second, you first flagged a potential conflict to us two weeks ago. You said that you were lead trial counsel in the Superior Court *New Pacific Hotel Inc. v. Sonder USA Inc.* case creating a conflict. We checked the filings in that case, and learned that as of June 20, 2022, you were not even on the masthead, much less lead counsel. We pointed this out to you. You now say you are co-lead counsel.

We also learned that Hueston Hennigan counsel asked the Court in the *Sonder* case to move the trial in that case to October 4, 2022, while fully aware of the imminent trial in this case. In any event, you now concede that the case is expected to conclude before the trial in this case.

Third, Amazon says that it has two “co-lead” counsel in this matter, both you and Mr. Moez Kaba. Mr. Kaba says that he is lead trial counsel on a different case, *Don Lee Farms v. Savage River, Inc.* that starts on September 26. This Superior Court trial has long been set, and would have left Mr. Kaba unavailable for the pretrial conference in any event. While Amazon says that this trial would conclude the Friday before the long-set date in the *MasterObjects* case, there is never any assurance that a trial will end exactly when expected.

Fourth, your revised letter yesterday now raises other reasons ostensibly creating a conflict. You say, for example, that Blair Hotchkies has a week vacation planned and would be

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August 24, 2022  
Page 2

inconvenienced by the trial. Trials can often inconvenience witnesses; it is simply the nature of the process. In any event, Mr. Hotchkies was involved in Autocomplete at the very beginning, and disclaimed any knowledge of how the system worked in recent years; he stopped work on Autocomplete in 2012, by his own testimony. This is a critical Amazon trial witness?

Similarly, you suggest that one of your experts may have a conflict given another case. Why are we just learning this now? In any event, we are always happy to work with opposing counsel on resolving such issues, *e.g.*, by taking witnesses out of order.

Finally, you suggest that Amazon is available to move forward with the Amazon trial starting November 7. We take it that you offered this trial date ironically: Amazon and its counsel, of course, are fully aware that the MasterObjects-Facebook trial has long been set for that week. You might have so acknowledged in your proposed letter.

Very truly yours,

/s/ Spencer Hosie  
Spencer Hosie

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